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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,826	07/23/2001	Katsuki Ogawa	IWA-173-PCT	1426

7590

11/18/2003

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EXAMINER

OSTRUP, CLINTON T

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 11/18/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/889,826

Applicant(s)

OGAWA ET AL.

Examiner

Clinton Ostrup

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-8, 12-14, 16-27, 29, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 12-14, 17-24, 26, 27, 29 and 32 is/are allowed.
- 6) ☒ Claim(s) 16, 25, and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 2-8, 12-14, 16-27, 29, and 31-32 are pending in this application.

#### ***Priority***

Priority to Japanese Application No. 11-334101, filed November 25, 1999, Japanese Application No. 2000-890, filed January 6, 2000, and PCT/JP00.08328, filed November 27, 2000 has been acknowledged.

#### **Response to Applicant's Amendment**

##### ***Claim Rejections - 35 USC § 112***

Applicant's amendment and arguments filed June 16, 2003, Paper No. 11, to the rejection of claims 2-8, 12-14, 16-27, 29, and 31-32 as being rejected under 35 U.S.C. 112, second paragraph have been fully considered and deemed persuasive. Therefore, the said rejection has been withdrawn.

##### ***Claim Rejections - 35 USC § 103(a)***

Applicant's amendment and arguments filed June 16, 2003, Paper No. 11, to the rejection of claims 2-8 and 12-31 under 35 U.S.C. 103(a) as being unpatentable over Hockmeyer et al., EP 0,546,715 A1 and further in view of SUNSTAR INC, JP 09286713 A and ISHIHARA SANGYO KAISHA, LTD., WO98/16193 have been fully considered and deemed persuasive. Therefore, the said rejection has been withdrawn.

#### **New Claim Objections and Rejections**

##### **Claim Objections**

Claim 31 is objected to because of the following informalities: It appears the word "grind" should be replaced with the word "grinding." Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16, 25, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 is rejected because, the phrase "and the like" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 25 is rejected because it is confusing if the powder components are hydrophobic or not. Lines 2-7 of the claim teach that the powder components are not made hydrophobic and then lines 11-12 describe the "hydrophobing of the powder components." It is unclear if the powder components are made hydrophobic by the phraseology of this claim.

Regarding claim 31, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Conclusion***

Claims 2-8, 12-14, 16-27, 29, and 31-32 are free of art.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clinton Ostrup whose telephone number is (703) 308-3627. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Clinton Ostrup  
Examiner  
Art Unit 1614



Frederick Krass  
Primary Examiner  
Art Unit 1614

